IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
LETTERS PATENT APPEAL NO.22 OF 2005
IN
WRIT PETITION NO.2819 OF 2002

Mr.Anil Vasant Gaikwad. .. .. Petitioner
v/s.

State of Maharashtra & ors. .. Respondents

Mr.A.M.Joshi for petitioner.

Mr.S.S.Kulkarni for res.Nos.4 & 5.

Mr.S.R.Nargolkar, AGP for res.Nos.1 & 2.

CORAM : H.L. GOKHALE &
S.P. KUKDAY, JJ.

DATE :14th June 2005

P.C. :

1. Heard the learned Counsel for the parties.

2. This petition seeks to challenge the order dated 20th August 2002 passed by a learned Single Judge dismissing Writ Petition No.2819 of 2002. The petitioner has done his M.Com. and was employed by respondent No.4-Institution in its college in a teaching post. He, however, did not have the NET / SET qualifications. He came to be discontinued in April 2001. He filed a proceeding in the College Tribunal and it was canvassed before the College Tribunal that he should get the benefit of Government Resolution dated 18th October 2001 which protected the teachers without

these qualifications, provided they had joined prior to 11th December 1999. Admittedly, the petitioner had joined subsequently and that being so, the College Tribunal could not give the benefit of that resolution. His application was dismissed. The petitioner thereafter filed the above-referred writ petition which has come to be dismissed by the learned Judge and hence, the present LPA has been filed.

3. Mr.Joshi, learned Counsel appearing for the petitioner, submitted that there is an order dated 18th April 2002 passed by a Division Bench of this Court in Writ Petition No.5782 of 2001. He draws our attention to paragraph 3 of that judgment and submits that where terminations were effected as a result of that resolution, the Division Bench directed such persons to be reinstated which refers to a judgment of the Aurangabad Bench High Court in an earlier matter.

4. Now, what is to be noted is that the petitioner was discontinued way back in April 2001. More than four years have elapsed since then. The applicability of the resolution itself is disputed to the facts of the petitioner’s case. The only thing that the petitioner can do, in the

circumstances, is to represent to the College that he may be considered for re-employment without insisting on the NET / SET qualifications. That will, however, be for the College to consider. We do not find any fault with the order of the learned Single Judge and that of the College Tribunal. LPA is dismissed.

5. Mr.Kulkarni, learned Counsel appearing for respondent Nos.4 and 5, points out that there was no stay either to the order of the College Tribunal or of the learned Single Judge and the College must have engaged some other teacher in the meanwhile. All that we are directing is to consider the representation to be made by the petitioner. If the petitioner so makes a representation, the same will be considered on merits.

(H.L. GOKHALE, J.)

(S.P. KUKDAY, J.)